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EXAMINER

BOECKMANN, JASON J

ART UNIT

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 5/11/2009 has been entered.

All claims are drawn to the same invention claimed in the application prior to the entry of the submission under 37 CFR 1.114 and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the application prior to entry under 37 CFR 1.114. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action after the filing of a request for continued examination and the submission under 37 CFR 1.114. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which the subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jett et al. (3,820,722) in view of Tamai (3,887,135).

Jett et al. shows a spray gun, comprising: a chamber spray head (13), having a one-way check valve (27) installed at a first end thereof to allow a compressed air flowing therein; a texture supply (14) having texture material therein; a nozzle (20), connected to a second end of the chamber spray head; and a supply tube (29), extending across the chamber spray head with an inlet entering the texture supply and an outlet entering the nozzle, wherein; the outlet defines a plurality of angled dispersal apertures (34) there through positioned within the nozzle and is restricted in the nozzle with an adjustable space (D1) to reciprocate responsive to the compressed air; the outlet is so structured that the compressed air is introduced from the chamber spray head into the supply tube, through the angled dispersal apertures within the nozzle to

adjust a pattern of a texture flowing there through and outwardly from the nozzle; and the inlet is so structured that the compressed air is able to flow from the chamber spray head to the texture supply to drive the texture material into the supply tube, but does not specifically disclose that the plurality of angled apertures force the material being sprayed into a swirling motion.

However, Tamai shows an atomization nozzle that atomizes a texture spray using a rotational air stream. The nozzle comprises a liquid supply tube (1) and an air channel (2) wherein the air flows through the angled spiral grooves (4) and into the outlet of the liquid channel creating a swirling motion of the liquid being sprayed. It is noted that the angled spiral grooves are within the nozzle and cause the fluid exiting the nozzle to rotate prior to leaving the nozzle, see figure 1b.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to orientate the plurality of angled dispersal apertures of Jett et al.'s invention, in a spiral configuration similar to the spiral grooves (4) of Tamai's invention, in order to create a spiral motion with textured material being sprayed before it leaves the nozzle, as taught by Tamai (abstract).

Regarding claim 2, the spray gun of Jett et al. as modified by Tamai, comprises a hollow body (10) connected to the first end of the chamber spray head and is connected to an air source.

Regarding claims 3 and 4, the spray gun of Jett et al. as modified by Tamai, comprises a nozzle seat (40) between the spray chamber head and the nozzle and the nozzle is adjustably mounted on the nozzle seat (the threads).

Regarding claims 5 and 6, the tube has a smaller outside dimension than and than nozzle seat, and the chamber spray head has an opening in a sidewall thereof to allow the supply tube to extend into the texture supply.

Regarding claims 7 and 8, the opening of the chamber spray head is larger than a dimension of the supply tube and the outlet has a protruding structure (32) to restrict it in the nozzle.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason J. Boeckmann whose telephone number is (571)272-2708. The examiner can normally be reached on 8:00- 5:00, Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Len Tran can be reached on (571) 272-1184. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3752

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/J. J. B./

Examiner, Art Unit 3752

6/29/2009

/Len Tran/

Supervisory Patent Examiner, Art Unit 3752